

SENATE BILL 9019

By Pody

AN ACT to amend Tennessee Code Annotated, Title 33; Title 56; Title 63; Title 68 and Title 71, relative to establishing uniform standards regarding restrictions relative to COVID-19.

WHEREAS, the COVID-19 pandemic has caused great uncertainty and anxiety across our State and has significantly affected the medical community, including hospitals; and

WHEREAS, hospitals have made many efforts to keep patients and employees in a safe environment, and have endeavored to minimize, to the extent possible, the risk of spread of the coronavirus disease; and

WHEREAS, as a result of COVID-19 prevention measures, many unintended consequences have occurred to patients of these facilities; and

WHEREAS, the General Assembly has become aware of numerous patients across our State who, as a result of tightened visitation policies, have been prohibited from having any visitors, including a spouse, parent, close family member, guardian, healthcare agent, or caregiver; and

WHEREAS, as a result, many patients have been forced to be alone during their treatment; and

WHEREAS, some of these patients have been forced to be alone for the entire course of their treatment and in some cases have died alone; and

WHEREAS, many families have been unable to be physically present with their loved ones while in a hospital, nursing home, hospice care, adult care home, or residential treatment setting for mental illness, developmental or intellectual disability, or substance use disorder, and have been limited to electronic video communications, if any, with the patient; and

WHEREAS, the patients who have been affected in the above-described manner have included adults, minors, and individuals with intellectual or developmental disabilities; and

WHEREAS, the General Assembly finds that it is in the interest of the State and its residents that these patients be allowed at least one immediate family member, designated healthcare agent, guardian, or person standing in loco parentis physically present at reasonable times throughout the period of hospitalization or residential treatment; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, is amended by adding the following as a new part:

68-11-2201. Short title.

This part is known and may be cited as the "No Patient Left Alone Act."

68-11-2202. Part definitions.

As used in this part:

- (1) "Adult care home" has the same meaning as defined in § 68-11-201;
- (2) "Assisted-care living facility" has the same meaning as defined in § 68-11-201;
- (3) "Hospice services" has the same meaning as defined in § 68-11-201;
- (4) "Hospital" means an institution, place, building, or agency represented and held out to the general public as ready, willing, and able to furnish care, accommodations, facilities, and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury, or disease or from another condition for which nursing, medical, or surgical services would be appropriate for care, diagnosis, or treatment;

(5) "Immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, or the spouse of an immediate family member, and includes stepparents, stepchildren, stepsiblings, and adoptive relationships;

(6) "Legal guardian" means an individual or entity that has the legal authority to provide for the care, supervision, or control of a minor as established by law or court order;

(7) "Minor" means:

(A) An individual who has not attained eighteen (18) years of age;

and

(B) Does not include an individual who has been emancipated pursuant to title 29, chapter 31;

(8) "Normal visitation policy" means the visitation policy that was in effect at a facility on January 1, 2020; and

(9) "Nursing home" has the same meaning as defined in § 68-11-201.

68-11-2203. Hospital patient visitation rights during a disaster declaration or public health emergency.

(a) During a period in which a disaster, emergency, or public health emergency for COVID-19 has been declared, a hospital licensed under this title or title 33 shall not restrict a patient from having at least one (1) visitor to visit a patient admitted to a facility, subject to the guidelines, conditions, and limitations of the facility's normal visitation policy.

(1) If a minor is admitted to a hospital licensed under this title or title 33, at least one (1) parent, legal guardian, or person standing in loco parentis is allowed the opportunity to visit and to be present while the minor patient is receiving hospital care. If a custody order or written child custody agreement is

in place, the custody order or written child custody agreement controls. This visitation is subject to the guidelines, conditions, and limitations of the facility's normal visitation policy. When the visitor cannot be in the room with the minor patient due to a medical procedure or other reason, the visitor has access to a waiting area.

(2) If an adult patient is admitted to a facility licensed under this title or title 33, at least one (1) immediate family member or designated healthcare agent has the opportunity to visit, subject to the guidelines, conditions, and limitations of the facility's normal visitation policy. When the visitor cannot be in the room with the patient due to a medical procedure or other reason, the visitor has access to a waiting area. If the patient has the capacity to make decisions, the patient may designate the one (1) visitor.

(b) Notwithstanding another law to the contrary, the visitation rights specified in this section may not be terminated, suspended, or waived by the hospital, the department of health, the department of mental health and substance abuse services, or the governor upon the declaration of a disaster or emergency.

(c) A hospital licensed under this title or title 33 shall not require a patient to waive the visitation rights specified in this section.

(d) A hospital licensed under this title or title 33 may require a visitor to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, a hospital may restrict a visitor who does not pass a health screening requirement or who has tested positive for an infectious disease. A hospital may require a visitor to adhere to infection control procedures, including wearing personal protective equipment.

(e) Each hospital licensed under this title or title 33 shall post in a conspicuous place on the licensed premises informational materials developed by the department of health or the department of mental health and substance abuse services, as applicable, explaining the rights specified in this section.

68-11-2204. Patient visitation rights for nursing home residents during a disaster declaration or public health emergency.

Notwithstanding another law to the contrary, the patient visitation rights and facility responsibilities specified in § 68-11-2203 apply to nursing homes licensed under this title.

68-11-2205. Patient visitation rights for residents of hospice services facilities during a disaster declaration or public health emergency.

Notwithstanding another law to the contrary, the patient visitation rights and facility responsibilities specified in § 68-11-2203 apply to hospice services facilities licensed under this title.

68-11-2206. Patient visitation rights for adult care home and assisted-care living facility residents during a disaster declaration or public health emergency.

Notwithstanding another law to the contrary, the patient visitation rights and facility responsibilities specified in § 68-11-2203 apply to adult care homes and assisted-care living facilities licensed under this title.

68-11-2207. Patient visitation rights for residents of facilities licensed under title 33.

Notwithstanding another law to the contrary, the patient visitation rights and facility responsibilities specified in § 68-11-2203 apply to facilities licensed under title 33.

68-11-2208. Remedies.

In addition to other remedies available at law, including any penalties prescribed in rule, a facility that violates this part is subject to a civil cause of action by the patient.

SECTION 2. The department of health and the department of mental health and substance abuse services are authorized to promulgate rules, including emergency rules, to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.